

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, January 25, 2007

ADMINISTRATIVE AGENDA

1. Call to Order/Flag Salute

Chairman McGowan called the meeting to order at 6:40 p.m.

2. Roll Call

Present: Chairman McGowan, Commissioners Armor, Calone, Johnson, Johnston, Kelly, Nottoli, Perez, Reagan, Ruhstaller, Sanders, Shaffer, Simonsen, van Loben Sels, and Wilson.

Absent: Commissioners Cabaldon, Ferguson, Piepho, and Scriven.

Chairman McGowan announced that Commissioners Beckman, Morey, Ornellas and Trott are no longer on the Commission. He welcomed Chuck Armor, Patrick Johnston and Larry Ruhstaller as the newest members, and welcomed Steve Shaffer back as a member.

4. Public Comment - Opportunity for Members of the Public to Address the Commission. Comments also Welcome as Agenda Items are Discussed.

No one addressed the Commission

5. Commissioner Comments/Announcements

Commissioner Johnson reported that the Quagga Mussel was discovered in Lake Mead and Lake Havasu. He said that if this mussel gets hold of the water systems and conveyance, it would be an ecological disaster because the mussel would take over all wildlife in the area. He said the Departments of Boating and Waterways, Food and Agriculture, Fish and Game, Water Resources and the State Lands Commission are working on the issue to implement an emergency response to the potential disaster.

CONSENT AGENDA (Items 6-16)

Chair McGowan moved Agenda Items #6 and #7b to the Regular Agenda.

Commissioner van Loben Sels asked that Agenda Item #8 be moved to the Regular Agenda.

Commissioner van Loben Sels moved approval of the Consent Agenda; Commissioner Kelly seconded. The Consent Agenda was approved unanimously.

REGULAR AGENDA (Items 17-18)

6. Approve Minutes of Meeting of November 16, 2006

Linda Fiack requested that Agenda Item #13b, Paragraph #9 of the minutes be corrected to state: "contact the Commission through letters to staff" instead of "contact the Commission".

Ms. Fiack requested the deletion of Commissioner Ornellas as he has been replaced on the Commission by Commissioner Ruhstaller as the representative of the San Joaquin County Board of Supervisors.

Commissioner Calone moved approval of the minutes as corrected and Item 7B as amended; Commission Shaffer seconded. The items were approved unanimously by voice vote.

8. APPROVE Revised Membership of Commission Budget Committee to be Comprised of a State, County and Water Agency Representative to Focus on the Development of a Plan for Commission Member Contributions to Commission Budget, and Draft Memorandum of Understanding for Implementation, Consistent with the Funding Strategy of the 2006-2011 Strategic Plan.

Commissioner van Loben Sels asked for details of the Commission membership contributions. Ms. Fiack reported that the Strategic Plan calls for Commission membership contributions to the Commission budget and for the establishment of a Delta fund within their budgets from which they could use for items contributing to the Commission. She said it was recommended that Commissioners Johnson and Simonsen sit on a committee to explore establishing a Commission line item within their respective budgets and annual contributions to the Commission budget.

Commissioner van Loben Sels asked for clarification on the San Joaquin County ag ordinance and Department of Water Resources (DWR) State Flood Plan items. Ms. Fiack reported that the San Joaquin Board of Supervisors considered the adoption of an ag ordinance and a recommendation from the public to exclude the Delta from having conservation easements for ag in the Primary Zone. She said she attended the meeting to provide clarification on the matter as a result of the clarification that the Act and Plan call for support of ag easements in the Primary Zone; the ordinance was approved with the Primary Zone included. Ms. Fiack also reported that DWR will be conducting several workshops to consider small communities.

Commissioner van Loben Sels moved approval of Agenda Item #8; Commissioner Simonsen seconded. The item was approved unanimously.

17. Receive and Consider Information Provided by Commission Staff on the Clarksburg Old Sugar Mill Specific Plan

Dan Siegel reported that two appeals were filed with the Commission challenging the Yolo County Board of Supervisors (County) approval of the Clarksburg Old Sugar Mill: one by the Natural Resources Defense Council and the other by the Concerned Citizens of Clarksburg. He said that under Commission regulations, appeals are heard in a two step process. The first step was a hearing on November 16, 2006 to determine whether or not the Commission has jurisdiction over the matter and whether or not appealable issues have been raised. During the hearing it was determined that the Commission has jurisdiction over the matter and that one or more appealable issues were raised. Mr. Siegel said the second step of the process was to have a hearing on the merits of the project, where the Commission could (1) deny the appeals; or (2) agree with the appeals and remand the project back to the County for reconsideration. He said the Commission should also direct staff to draft findings to bring the item back at the next regularly scheduled meeting on February 22, 2007, review those findings for consistency, and

adopt them. The final decision would be made on February 22, 2007 because the clock for anyone to challenge a decision is made when the decision is adopted. He said the hearing is de novo, which means that it is a fresh hearing and that the Commission does not give weight one way or the other to what the County has previously decided. Mr. Siegel also reminded the Commission to refrain from engaging in ex-parte communications; however, if they have received contacts, they must be disclosed. He referenced letters from Kristen Castanos, Somach, Simmons and Dunn, and John Carvalho, Jr. respectively as being received by the Commissioners.

Mr. Siegel said he entered a "Tolling" Agreement at the County's request. The agreement stops the Statute of Limitation so that if any party disagrees with the Commission's November 16, 2006 decision, that party can go to court within 60 days of the Commission's final decision.

Mr. Siegel said that the January 8, 2007 letter submitted by Ms. Castanos asserts that the Commission lacks the ability to hear the appeal based upon a 60 day provision to hear an appeal which is in the Act. Mr. Siegel said the Department of Justice analysis strongly disagrees with Ms. Castanos because the Commission is acting consistent with the Commission's regulations which are modeled on case law that existed when the regulations were adopted.

Greg Loarie, EarthJustice, said that the question before the Commission is whether the Old Sugar Mill Project is consistent with the Act and the Plan. He said the NRDC believes the project is inconsistent and should be remanded back to the County. Mr. Loarie said that many of the Clarksburg residents are not in support of the project as it would double the number of buildings in the town; it is inconsistent with the Commission's policies; and it would have a direct impact on ag, particularly given the 12/20 General Plan discussion Yolo asking to add more ag industry land.

Mr. Loarie said that project is controversial and will forever change the town of Clarksburg as it is the first dense urban development that has ever been approved in the Primary Zone. He said dense urban development and agriculture do not mix because farming becomes difficult as development pressures increase and agriculture is ultimately squeezed out. Mr. Loarie said the project is inconsistent with Land Use Policies P-2, P-3 and P-4, as it will have an impact on agriculture because it will convert the vast majority of ag parcels into urban residential and commercial development.

Mr. Loarie said that on December 20, 2006 the Yolo County Planning Commission recommended the County add 100 new acres of ag industrial zoning to the Clarksburg area. He said it is not sensible for the County to rezone ag industrial land to make room for subdivisions at the same time its rezoning existing crop land to make room for new ag industrial. Mr. Loarie stated that the project would have indirect impacts on agriculture because it is difficult, if not impossible, to put dense urban development in an ag area without causing conflicts. Additionally, 8,500 new vehicle trips would be added and neighboring vineyards would face increased restrictions on when and where they could spray fields. He also said that Commission staff and the Yolo County Farm Bureau have raised the issues of noise and night harvest.

Mr. Loarie said that the project would build a sewage treatment facility, which is in conflict with the Utilities and Infrastructure Policy P-3. He also stated that the Regional Water Quality Control Board (RWQCB) agreed with the Commission's assessment when it reviewed the project. He said the question to be asked is: "is the proposed facility a new or upgrade to

existing facility meant to serve lands already zoned for residential development’. While Clarksburg has no existing sewage treatment facility, a new facility would serve lands that have been zoned ag/industrial. The Sugar Mill facility would be demolished in favor of a new facility which would accommodate a different waste stream and require a permit from the RWQCB.

Additionally, the project would be built behind a levee that was built in 1918. Mr. Loarie said it is bad policy to build a residential development behind a levee that was never built for that purpose. He said that Yolo County acknowledges the project will still entail significant risk even with the mitigation measure.

Jim Pachl, Concerned Citizens of Clarksburg said that Land Use Policy P-4 and Levee Policy P-3 are at issue. He said that it is not prudent for Yolo County to build 164 homes next to a levee that does not have 100 year flood protection. Mr. Pachl said that he is concerned that the developer will do a flood protection plan for that section of the levee only and then will implement the improvements which the county deems feasible. He said the issue is setbacks. Mr. Pachl stated that Yolo has not shown any evidence that there is 100- year protection; Walnut Grove and Courtland have sewage and wastewater whereas Clarksburg has no community wastewater supply. The project will increase density

Phil Pogledich, Deputy County Counsel, Yolo County, said that when the County held public hearings on the project, a number of Clarksburg residents said their town was dying—it was losing its heritage and historic connection to agriculture and the economic benefits of having businesses and a large employer. He said the Board of Supervisors saw the project as a way to respond to the residents. Mr. Pogledich said the opportunities the project brings do not expand the urban footprint of Clarksburg. He said the project is within the urban limit line of Clarksburg, which has been in place since 1959. It has been zoned/used for industrial purposes for many decades. He said the project converts an obsolete industrial site into a mixed uses development. Mr. Pogledich said that the project was carefully planned and is an integrated redevelopment project that brings many benefits to the town of Clarksburg with the goal of restoring the agricultural heritage to the town.

Mr. Pogledich provided a copy of a management plan compliance flow chart. He said that Agriculture Policy P-4 and Land Use Policy P-2 are not intended to apply to individual projects in the Primary Zone, but are intended to guide local land use planning as an overall matter. Therefore the two policies are not properly at issue in this appeal, as they were not written to apply to individual projects and should not apply to this project. Mr. Pogledich said the project supports Agriculture Policy P-4 because it provides much needed ag processing centers, a base for tourism, and a much needed supply of housing for workers in the Clarksburg area. It does not convert ag. land. He said that with respect to Land Use Policy P-2, the project does provide clustering, which in turn has eliminated urban sprawl, prevented impacts on ag operations and reduced the need for housing in other rural areas.

Mr. Pogledich said that Levees Policies P-2, P-3 and P-4 are also general policies that do not apply to specific projects. Additional reasons these policies do not apply to P-2 are that the County does not do levee maintenance in the Clarksburg area, does not need guidelines, and therefore is not relevant to the appeal; relative to P-3, the County has adopted flood ordinances based on a FEMA model. This Policy applies only to construction within a flood hazard area—the project is not within a flood hazard area—therefore the policy does not apply. He said P-4 does not apply because neither appellant specifically mentions P-4 in their submissions, although

it was mentioned in the staff report. He said the Commission's regulations require an appellant to state the specific grounds for the appeal and provide a detailed statement of the facts on which the appeal is based. He said that with respect to Land Use Policy P-3, the county always imposes buffers on new urban development if that development is next to ag land. The buffers are fully adequate and protect the vineyard west of the project site.

Mr. Pogledich said Land Use Policy P-4 does not apply because it does not require that a particular level of flood protection be provided. In addition, he said that the project fully complies with Land Use Policy P-7 and goes beyond what the policy is asking for in that it includes a 50-ft permanent setback from the levee. He further stated that Utilities and Infrastructure Policy P-2 has not been raised or addressed by either appellant.

Mr. Pogledich said that the County looked at each policy in responding to comment letters and proactively making sure the project was consistent with the Plan. He suggested that the appellants address the specific basis policy interpretation to support their allegations that the Commission's actions would be precedent setting against rapid urbanization in the Primary Zone. He also suggested the appellants provide the specific basis in the Act and Plan for the Commission to decide the appeals based on flood protection experience, as there is nothing in the Act or Plan that allows the Commission to decide the appeals based on those concerns.

Helen Thomson, Yolo County Board of Supervisors, said that the mission and goal of the County is to support agricultural land and open space. She said the County has taken a no competition position with its cities with regard to urban growth and does not compete with the cities for sprawl. She said that approval of the project is the right thing for the right reason as it is keeping faith with the policies of the Act. She said that when she first spoke with Senator Johnston about the Act she strongly supported the Act and continues to support it today. She said the Senator assured her that small rural Delta towns such as Clarksburg would not be negatively affected as the Act was specifically intended not to affect any territory with a 1992 existing urban limit line. She said the project site is within the urban limit line of the town of Clarksburg. Supervisor Thomson said she believes the project meets and/or exceeds the standards of the Act and does not convert farm lands or habitat to urban development in the Delta. She also said she believes the project is what is needed under the Act, as it provides the most progressive flood protection in the entire Sacramento region. She asked that the Commission recognize that the County has put in many years of hard work in studying the project.

Kristen Castanos, Somach, Simmons and Dunn said that the project is an infill project in an urban area—a redevelopment of an industrial site which does not include any productive agricultural land. She said that project is located within the Clarksburg urban limit line as defined within the Yolo County and Clarksburg general plans since 1959. Ms. Castanos said the general plan designated the site as a specific plan area to allow for a redevelopment of the site to create a mixed use environment. The project focuses on the agricultural industry, commercial and hospitality industries, in addition to recreational uses which include a park and public dock. Ms. Castanos said the residential component of the project is small, as residential uses on the 105-acre site will occur on 20 acres and will add 7 percent residential land to the Clarksburg urban area. She said that neither the Act nor Plan prohibit growth but provide guidelines to ensure growth occurs within appropriate areas in the Delta. Ms. Castanos said the project is consistent with the Land Use, Agriculture, and Utilities and Infrastructure Policies. She said the appellants have ignored Policy P-2 which is on point with the project to accommodate new uses and avoid overburdening existing resources because facilities are designed to assure that highest

feasible standards are met. She also stated the applicant has been in constant contact with the RWQCB regarding the required permits and the requirements for meeting water quality standards. Ms. Castanos said the applicant is prepared to submit his application for a wastewater system but has not done so because of the impending appeal. P-3 must be read in the context of P-2 and the other policies to allow for new uses. The project does not include any new wastewater facilities.

Commissioner Sanders asked where the 100 acres of agriculture processing zoning would be located. Mr. Pogledich responded that there was not 100 acres of new zoning, as the Yolo Planning Commission does not have the authority to rezone land. He said the Yolo County Planning Commission had a package of different recommendations made to the Board of Supervisors that were made during part of the general plan update process and it was suggested that there be a rezoning of 100 acres in the Clarksburg general plan planning area. He said the proposal is for 100 acres to be rezoned for potential use of ag industrial purposes at some point in the next several years. He said it was a few steps away from policy and has not been endorsed by staff or considered by the Board of Supervisors.

Commissioner Nottoli asked if the general plan update had gone through an environmental review. Mr. Pogledich responded that the County was at an early part of the general plan process and was a long time away from having anything that would be considered under CEQA.

Commissioner Shaffer asked for a description of the buffers that would be incorporated into the project. Mr. Pogledich responded that the buffer would be 300 feet. Mr. Loarie said that the 300-ft. buffer is less than the recommended buffer of 500 to 1,000 feet. He also said the County would begin the buffers from the first vine instead of the property line; therefore, they were taking credit for property that is in the vineyard. Mr. Pogledich said the County's Agricultural Commissioner was consulted and he said that only 300 foot buffers were needed because the vineyard would not be subject to additional spraying restrictions as a result of the project. Mr. Pachl said the ag processing of the project would be located next to the 164 unit subdivision and that is asking for trouble. He referenced a Yolo County Farm Bureau letter of October 10, 2006 which stated that agriculture processing facilities should be distanced from high density residential divisions because neighbors highly object. Mr. Pogledich referenced a letter from the Farm Bureau dated December 20, 2006 which states that notification be given to new residents explaining the County's Right-to-Farm Ordinance. He said the other attorneys were bringing up issues that have already been addressed in the County's EIR. He also said the statute of limitations was over on the issues and the hearing tonight was no reason to use as a forum to bring up the adequacy of the EIR.

Mr. Siegel said that there were no limitations on the issues. He said that the fact that the County did a CEQA determination does not have any legal impact on the Commission's rights to determine whether or not similar impacts are consistent or inconsistent with the Plan.

Chair McGowan asked if the Commission should re-examine the EIR and make an independent determination. Mr. Siegel responded no, because if the Commission denies the appeal it would not be the equivalent of granting a project, therefore there would be no need to have a CEQA evaluation. Furthermore, if the Commission grants the appeal by ordering a remand, it is likewise not approving a project.

Chair McGowan convened the public hearing.

The following people spoke during the public hearing:

Elly Fairclough, Office of Congressman Mike Thompson
Craig Reynolds, Office of Assemblymember Lois Wolk
Heidi Tschudin, Contract Planner, County of Yolo
Rick Landon, Agricultural Commissioner, County of Yolo
Wes Ervin, Economic Resources Manager, County of Yolo
Julia McIver, Director, Parks and Natural Resources Management, County of Yolo
Bill Martin, County of Yolo
Mary McTaggart, Clarksburg
Russell van Loben Sels, Clarksburg
Linda McGregor, Clarksburg
Mike Heringer, Concerned Citizens of Clarksburg
Al Medvitz, Rio Vista
Peter Simpson, Concerned Citizens of Clarksburg
Jeff Hart, Hart Restoration
Patty Bogle, Bogle Winery
Don Fenocchio, Clarksburg
Jeanne McCormack, Rio Vista
John Bohl, Concerned Citizens of Clarksburg
Hal Shipley, Clarksburg
Peggy Bohl, Spokesperson, Concerned Citizens of Clarksburg
Ted Smith, Concerned Citizens of Clarksburg
Steve Heringer, Clarksburg
Jerry Spain, Clarksburg
Dave Wilson, Wilson Farms
Katherine Merwin, Clarksburg
Jane Klotz, Clarksburg
Daryl Kelso, Clarksburg
Marlene Marshall, Clarksburg
Richard Marshall, Clarksburg
Mark Wilson, Wilson Farms/Vineyards
Ceci Giacomini, Rio Vista
Nancy Kirchhoff, Clarksburg
Carolyn Hinshaw, Davis
Robert Kirtland, Clarksburg
Joe Muratori, El Dorado County
Jayne Alchorn, Courtland
Tom Merwin, Clarksburg
Don Clark, Clarksburg
Greg Merwin, Clarksburg

Chair McGowan closed the public hearing.

Rebuttal Testimony

Phil Pogledich reiterated that Utilities and Infrastructure Policies P-2 and P-3 are at issue. He said Policy P-2 is applicable to the project because it pertains to sewage treatment facilities for infill redevelopment projects within existing towns; whereas, Policy P-3 is not applicable

because it would be inconsistent with Policy P-2. He said there have been claims that that there was coercion by the applicant to have the County change mitigation measures in the EIR and this was not true because he was personally involved in all the mitigation measures. He also said that the only flood control policies that apply to the project are levee setbacks for maintenance and levee setbacks for rehabilitation of the levee. He said the project includes a 300-foot interim setback until it is demonstrated that the area is not needed for levee enhancement. Additionally, the County of Yolo has taken measures to make sure that nothing would jeopardize the integrity of the levee or interfere with routine or emergency maintenance. Mr. Pogledich asked that the Commission find in favor of the County of Yolo and reject the appeals.

Mr. Loarie said this development is the first of its kind proposed in the Primary Zone. He said the Commission's determinations will define the boundaries of the Act and Plan, and if the project goes forward it will set a precedent for more projects. He urged the Commission to remand the project back to the County of Yolo.

Mr. Pachl said this project constitutes a rezone and general plan amendment. He stated the County has not committed to 100-year flood protection.

Commissioner Questions

Commissioner Nottoli asked how many units were approved for the property. Mr. Pogledich responded that 162 units were approved but only 128 units would fit on the property. Ms. Tschudin responded that 162 units were approved, but there was no way to predict how many units would be built. Mr. Loarie stated that the appeal before the Commission was based on the approval of 162 units.

Commissioner Kelly asked if the residential setbacks would be 300 or 50 feet. Ms. Tschudin responded that the 50-foot setback is a permanent setback and the 300 foot setback is an interim setback that would apply only if the area is shown through the geotechnical study not to have 100-year protection.

Senator Machado asked if the geotechnical surveys would be performed by engineers employed by the applicant or in conjunction with what the State is doing with DWR in consultation with the Corps. Mr. Pogledich responded that the surveys would be performed by engineers hired by the applicant but subject to County approval.

Senator Machado asked if the levees were project levees, and if so, whose standards would be applicable. Mr. Pogledich responded that the levees were project levees; however, if there was a State protocol to be followed then it would be expected that the applicant follow the protocol. Ms. Tschudin responded that the County would use the Federal standard.

Senator Machado asked that if the County accepted a survey by the applicant would it accept any liability for any breach that would come as a result of accepting the work and certification of a survey from the applicant. Mr. Pogledich responded that if a certification comes in before a State survey then the County is obligated to respect that.

Commissioner Shaffer asked if the buffer on the project was on the ag easement land or the project itself. Mr. Pogledich responded that the buffer begins from the vines. Ms. Tschudin responded that the buffer was 600 feet from the property line to the residential development. Kristen Castanos replied that the mitigation measures required that the 300 foot buffer be

measured from the first vine row. She said the buffer starts at the first row of grape vines to the occupied part of the project; however, because there is a road easement, the applicant is limited to how close they can come to the property line with the existing vines.

Commissioner Shaffer asked if the project would result in an increase of density in terms of urban development. Mr. Pogledich responded no. Mr. Loarie further responded that the construction of 162 residential units would definitely increase density because it would put about 5 units per acre, where currently the town has 2 units per acre.

Commissioner Sanders asked the price range of the homes. Mr. Pogledich said the prices would be determined by market conditions, however 20 percent of the units would be deed restricted as affordable units for lower and middle income families.

Commissioner Shaffer asked if the project site was currently in a flood hazard area. Mr. Pogledich answered no; it is in a 500 year flood plain. Mr. Loarie further responded that the 500 year certification is in serious question and will no longer be in that particular area when the rate maps are redrawn.

Discussion by Commission

Mr. Siegel explained that the Commission had two options: (1) deny the appeals or (2) grant the appeals and remand the project back to the County. He said that if it is found that the project is entirely consistent with the Plan, the Commission should deny the appeals; however, if it is found that the project is inconsistent with one or more policies in the Plan, or one or more elements in the Act, the Commission should grant the appeals. He said that in either case, the Commission would have to come back next month to consider staff written findings that would be reviewed for consistency with the decision it made at the hearing.

Ms. Fiack reminded the Commission the issue on the table was consistency with the Act and the Plan. She also advised that the Commission review the points made by Commissioner Kelly relative to flood control issues and flood control remedies and parameters. She also clarified per reference to County Counsel statement, the Agricultural Policy P-4 is subject to a determination.

Commissioner van Loben Sels said he felt the project was inconsistent with Land Use Policy P-2. He also said that recertification of the levees would have to happen before any new homes are built.

Commissioner Reagan commented that he felt that the levees are State operated, and if the tests find the levees are unsafe, then the State should fix them or pay for the relocation of the current citizens.

Commissioner Johnston said he felt the issue of density to eliminate urban sprawl is only an issue because the project elevates residential housing. He said that if the proposal and project were centered on ag. support and the winery, there would be no issue of setbacks and impacts on agriculture; as the presence of residential housing is what is forcing the issues of flood protection, buffers. Commissioner Johnston said it was important to see that the Primary Zone is designated for protection of agriculture, and within that, communities like Clarksburg must continue to exist.

Commissioner Kelly said she was concerned that the project would allow residential development where a levee may not be certified for public safety, which is counter to the Act.

Commissioner Nottoli asked if the Commission would lose jurisdiction if it were to continue the matter at a later date. Mr. Siegel responded that he has not fully researched the matter; however, there was at least one case that he knew of that indicated a hearing could be continued and not lose jurisdiction. He said, however, it would be best to make a determination on the merits at this meeting, and to only continue the hearing for the purpose of reviewing written staff findings.

Commissioner Kelly said she felt that the project was more applicable to and consistent with Utilities and Infrastructure Policy P-2.

Commissioner Shaffer asked if there was a distinction between the two policies. Mr. Siegel responded that he was not sure. He also said it is possible that the disposal system described in Policy P-2 could be referring to the two new facilities permitted under Policy P-3.

Commissioner van Loben Sels said he was afraid that the problems that arose in Courtland and Walnut Grove regarding water quality would surface in Clarksburg and the time to address the issue is now with exporting the effluent to a regional treatment facility outside of the Primary Zone.

Commissioner Calone said that P-3 allows for appropriate buffer areas provided, as well as setbacks of 500 to 1,000 feet. He said there is no reference in the Plan for less than 500 feet. He said this was the discussion when the Plan was being adopted because farmers felt that was needed.

Commissioner van Loben Sels said he felt the project was inconsistent because the 105 acres, combined with the housing and public space would leave about 25 acres of value added space. He said the Commission supported the “value added” uses of the facility; however, with less than 25 acres, the facility would have no way to expand.

Chair McGowan said there has to be a way for smaller communities to remain vital and viable. He said he disagreed with Commissioner van Loben Sels because the project enhances the economic viability of the area of Clarksburg.

Commissioner Wilson moved that the Commission deny the appeals and direct staff to prepare findings consistent with the motion considered by the Commission on February 22, 2007; Chair McGowan seconded. The motion was denied 5 to 10 by roll call vote. (Ayes: McGowan, Nottoli, Reagan, Ruhstaller, Wilson. Noes: Armor, Calone, Johnson, Johnston, Kelly, Perez, Sanders, Simonsen, Shaffer, van Loben Sels).

Commissioner van Loben Sels moved that the Sugar Mill project was inconsistent with Utilities and Infrastructure Policy P-3; Commissioner Johnston seconded. The motion was denied 4 to 11 by roll call vote. (Ayes: Johnson, Johnston, Simonsen, van Loben Sels. Noes: McGowan, Armor, Calone, Kelly, Nottoli, Perez, Reagan, Ruhstaller, Sanders, Shaffer, Wilson).

Commissioner Wilson moved that the Sugar Mill project was inconsistent with Land Use Policy P-3. The motion was withdrawn pursuant to Commission discussion.

Commissioner Kelly moved that Sugar Mill project was inconsistent with Land Use Policy P-3; Commissioner van Loben Sels seconded. The motion was approved 8 to 7 by roll call vote. (Ayes: Armor, Calone, Johnston, Nottoli, Sanders, Simonsen, Shaffer, van Loben Sels. Noes: McGowan, Johnson, Kelly, Perez, Reagan, Ruhstaller, Wilson).

Commissioner Reagan moved that the Sugar Mill project is consistent with Agriculture Policy P-4; Commissioner Wilson seconded. The motion was approved 12 to 3 by roll call vote. (Ayes: McGowan, Armor, Calone, Johnson, Kelly, Nottoli, Perez, Reagan, Ruhstaller, Sanders, Shaffer, Wilson. Noes: Johnston, Simonsen, van Loben Sels).

Commissioner Wilson moved that the Sugar Mill project is consistent with Land Use Policy P-2; Commissioner Reagan seconded. The motion was approved 8 to 7 by a roll call vote. (Ayes: McGowan, Armor, Kelly, Nottoli, Perez, Reagan, Ruhstaller, Wilson. Noes: Calone, Johnson, Johnston, Sanders, Simonsen, Shaffer, van Loben Sels).

Commissioner Sanders moved that the Sugar Mill project is inconsistent with Land Use Policy P-4; Commissioner van Loben Sels seconded. The motion was approved 10 to 5 by roll call vote. (Ayes: Armor, Calone, Johnson, Johnston, Kelly, Perez, Sanders, Simonsen, Shaffer, van Loben Sels. Noes: McGowan, Nottoli, Reagan, Ruhstaller, Wilson)

Commissioner Wilson moved that the Sugar Mill project is consistent with Land Use Policy P-7; Commissioner Reagan seconded. The motion was approved 8 to 6 to 1 by roll call vote. (Ayes: McGowan, Armor, Kelly, Nottoli, Perez, Reagan, Ruhstaller, Wilson. Noes: Calone, Johnston, Sanders, Simonsen, Shaffer, van Loben Sels. Abstain: Johnson).

Commissioner Kelly moved that the Sugar Mill project is consistent with Levees Policy P-1; Commissioner Nottoli seconded. The motion was approved 14 to 1 by voice vote.

Commissioner Wilson moved that the Sugar Mill project is consistent with Levees Policy P-2; Commissioner Reagan seconded. The motion was approved 13 to 2 by voice vote.

Commissioner van Loben Sels moved that the Sugar Mill project is inconsistent with Levees Policy P-3; Commissioner Simonsen seconded. The motion was approved 10 to 5 by roll call vote. (Ayes: Armor, Calone, Johnson, Johnston, Kelly, Perez, Sanders, Simonsen, Shaffer, van Loben Sels. Noes: McGowan, Nottoli, Reagan, Ruhstaller, Wilson).

Commissioner Reagan moved that the Sugar Mill project is consistent with Levees Policy P-4; Commissioner van Loben Sels seconded. The motion was approved unanimously by voice vote.

Commissioner Wilson moved that the Sugar Mill project is consistent with Levees Policy P-5; Commissioner Kelly seconded. The motion was approved unanimously by voice vote.

Commissioner Sanders moved that the Commission remand the matter of the Sugar Mill project to the County of Yolo on the grounds that it has determined that the project is inconsistent with the following Policies of the Commission's Land Use and Resource Management Plan: Land Use Policy P-3, Land Use Policy P-4, and Levees Policy P-3; and related policies in the Delta Protection Act, and the Commission direct staff to prepare written findings consistent with this motion to be considered by the Commission at its February 22, 2007 meeting; Commissioner Calone seconded. The motion was approved 12 to 3 by voice vote.

18. Adjourn

The meeting was adjourned at 1:15 a.m. on Friday January 26, 2007.

Attachments:

1. Correspondence List (relative to January 25, 2007 hearing)
2. Exhibits Entered into Record of the January 25, 2007 hearing – (*Exhibits on file in Commission Office*)
 - a. James P. Pachl letter dated January 25, 2007
 - b. County of Yolo Old Sugar Mill Project Overview of Benefits
 - c. County of Yolo Resource Management Plan Compliance Flow Charts
 - d. Somach, Simmons and Dunn, Old Sugar Mill Specific Plan Presentation Overview
 - e. EarthJustice Map of Clarksburg Sugar Mill Site
 - f. Kristen Castanos letter dated January 19, 2007